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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/810,006      | 03/26/2004  | Glenn Seale          |                     | 7755             |

7590 09/11/2006  
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EXAMINER

CHIN, PAUL T

ART UNIT PAPER NUMBER

3652

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                     |  |
|------------------------------|--------------------------------------|-------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/810,006 | <b>Applicant(s)</b><br>SEALE, GLENN |  |
|                              | <b>Examiner</b><br>PAUL T. CHIN      | <b>Art Unit</b><br>3652             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-14 and 21-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/8/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of the restriction and the species, Figs. 18 and 19, readable on claims 11-14 and 21-28, in the reply filed on June 8, 2006, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Note that applicant amended claims 11-14 and added new claims 21-28.
2. Claims 1-10 and 15-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 8, 2006.

### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on June 8, 2006, was filed and the submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner. However, some of the references have been crossed out and not considered because they are closely related to the elected invention.

### ***Drawings***

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "62" has been used to designate both "counter bar" and "flag". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR

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1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "second strap means" (claim 12) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Objections***

6. Claims 11 and 13 are objected to because of the following informalities: it appears in claim 11, line 4, that the word "comprising" should be changed to -- comprised -- and the phrase "Further comprising a support for the bags" (claim 13, last line) should be deleted. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claim 22 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, applicant states on page 9, lines 8-9:

The arms may be folded upward or downward at hinges 63 at the back of these loading arms in order to have them out of the way unless they are in use.

It is not clearly understood as to how the arms are folded upward and downward at hinge 63.

Figure 18 or Figure 19 does not clearly show the detailed structure of the hinge (63)

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 11-14 and 21-28, as best understood, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites, "comprised of a support means comprising at least one rack arm" in line 4, and it is unclear as to whether applicant is claiming "a support means" in the preamble or "in the body of the claim". Moreover, claims 13 and 21 recite, "the bags have a top and a bottom and a length from the bag top and bottom" and it is not clearly understood as to whether applicant is claiming a combination of the device and the bags. Further,

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there is no antecedent basis for "the strap means" in claim 24. The claimed language of claim 26 is also vague and indefinite as to the meaning of "the invention is operated by a user standing adjacent from the invention". The recited "invention" is unclear. Claims 14 and 28 recite "a package holding means" and it is unclear as to whether the recited meaning of a package holding means refers to the carried bags or other things. Note that claims 14, 27, and 28 should be withdrawn if the applicant is claiming figures 9, 12, or 14, which are non-elected species.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 11-14, 21-28, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by the prior art of Figures 18 and 19.

Figures 18 and 19 of the instant application, labeled as prior art, shows a device for closing bags with handles comprising a support means having at least one rack arm (58) (Fig. 1) with a first end and a second end having a substantially arm length, and a second arm (59) with a first end and a second end having a substantially arm length, a strap (2) to hold the bag handles (42, 42) and a hinge (63), and a post (66) with a bearing means (64).

13. Claims 11-14, 21-23, and 26, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Wallick et al. (4,830,385).

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Wallick et al. (4,830,385) discloses a device for closing bags with handles comprising a support means having at least one rack arm (17) (Fig. 1) with a first end and a second end having a substantially arm length, and a second arm (24) with a first end and a second end having a substantially arm length. Note that the claimed languages of "a first strap" and "a second strap" are in the preamble and also functional limitations.

Wallick et al. (4,830,385) is capable of providing a first strap and a second strap for holding the handles of the bags.

Re claims 13 and 14, figure 1 shows a base (11,16,18) and a package holding means (21,21).

Re claims 21 and 22, figure 1 shows a mounting means (18,20) and figure 2 shows that the mounting means (18,20) is substantially rotational between a storage position and a carrying position.

Re claim 23, figures 1 and 2 shows a plate (16), which can be considered as a bag support plate, for supporting the bag attached below the rack arm as shown in figure 1.

Re claim 26, a user is capable of standing and holding the bags.

### ***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 24,25,27, and 28, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallick et al. (4,830,385) in view of Wills (US Publication 2002/0116796).

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Wallick et al. (4,830,385), as presented above, does not show a strap to hold the bag handles. However, Wills (US Publication 2002/0116796) teaches a strap (6,8) to hold the bag handles. Accordingly, it would have been obvious to those skilled in the art to provide a strap on the bag handles of Wallick et al. (4,830,385) as taught by Wills to hold the bag handles together and to prevent the bags from separating. With regard to the length of the strap, it would have been obvious to those skilled in the art to optimize the desired length of the strap to hold the bag handles and hang on the arms.

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (571) 272-6922. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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A handwritten signature in black ink, appearing to read "Paul T. Chin". The signature is written in a cursive, flowing style with a large initial "P" and a stylized "C".

PAUL T. CHIN  
Examiner  
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